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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HANA MODZ, LLC, an Illinois Limited
Liability Company

Case No.: C14-01194JLR

ANSWER TO COMPLAINT

Plaintiff,

vs.

VAPORCRYPT, INC., also known as
VAPORCRYPT, an Oregon Corporation; ERIK
SELLGREN, an individual

Defendants.

Defendants Vaporcrypt, Inc. (“VaporCrypt”) and Erik Sellgren (“Sellgren”) hereby respond to Plaintiff Hana Modz, LLC (“Hana Modz”) as follows:

I. INTRODUCTION

1. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 1 and therefore deny the same.

II. THE PARTIES

2. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 2 and therefore deny the same.

3. Admit that VaporCrypt, Inc. is an Oregon corporation.

4. Admit that Sellgren resides in Seattle, WA.

5. Defendants are without information sufficient to form a belief as to the truth of allegations of paragraph 5 and therefore deny the same.

6. This paragraph does not require a response.

III. JURISDICTION AND VENUE

7. Admit.

8. Admit.

9. Admit.

IV. FACTS

10. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 10 and therefore deny the same.

11. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 11 and therefore deny the same.

12. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 12 and therefore deny the same.

13. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 13 and therefore deny the same.

14. Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 14 and therefore deny the same.

15. Admit that Vaporcrypt sells electronic cigarette products through its website.

16. Deny.

1 17. Admit that defendants are not authorized distributors of Hana Modz products, and
2 deny the remainder as Defendants are without information sufficient to form a belief as to the truth
3 of the remaining allegations of paragraph 17.

4 18. Defendants are without information sufficient to form a belief as to the truth of the
5 allegations of paragraph 18 and therefore deny the same.

6 19. Admit that at one point the words and phrases Hana Modz, clone and “exact 1:1
7 replica and would be almost impossible to differentiate from the real thing” were on the
8 www.vaporcrpt.com website, deny the remaining allegations insofar as this paragraph appear to
9 calls for a legal conclusion, and defendants are otherwise without information sufficient to form a
10 belief as to the truth of the remaining allegations of paragraph 19.

12 20. Defendants are without information sufficient to form a belief as to the truth of
13 the allegations of paragraph 20 and therefore deny the same.

14 21. Deny.

16 **COUNT 1 – TRADEMARK INFRINGEMENT (15 USC §1125(a))**

17 22. Defendants incorporate answers to paragraphs 1-21 as though fully set forth herein.

18 23. Deny insofar as this paragraph appears to call for a legal conclusion that may or may
19 not relate to the actual and present controversy.

20 24. Deny.

21 25. Deny.

22 26. Deny.

23 27. Deny.

24 28. Deny.

25 29. Deny.

COUNT II – UNFAIR COMPETITION

- 1 30. Defendants incorporate answers to paragraphs 1-29 as though fully set forth herein.
- 2 31. Deny.
- 3 32. Deny.
- 4 33. Deny.
- 5 34. Deny.
- 6 35. Deny.
- 7 36. Deny.
- 8
- 9

AFFIRMATIVE DEFENSES

11 Defendants' affirmative defenses are set forth as follows:

FIRST AFFIRMATIVE DEFENSE

- 12 37. Plaintiff fails to state a claim upon which relief can be granted.
- 13

SECOND AFFIRMATIVE DEFENSE

14 38. Defendant Vaporcrypt, Inc. is a corporation lawfully organized in Oregon; as a
15 result, Plaintiff is not entitled to bring a claim against Erik Sellgren merely for his alleged actions as
16 an agent of Vaporcrypt.

THIRD AFFIRMATIVE DEFENSE

19 39. Defendants have not engaged in false advertising in connection with the promotion
20 of its products.

FOURTH AFFIRMATIVE DEFENSE

23 40. Defendants' actions in connection with the Plaintiff's common law trademarks do
24 not constitute a violation of the Washington Consumer Protection Act.

FIFTH AFFIRMATIVE DEFENSE

41. Defendants' uses (if any) of the phrases and words clone, replica and Hana Modz constitute mere comparative advertising and is not actionable under 15 USC §1125(a).

SIXTH AFFIRMATIVE DEFENSE

42. Plaintiff's claims are barred by the equitable doctrines of estoppel, unclean hands, waiver and/or laches.

PRAAYER FOR RELIEF

Wherefore, Defendants ask that all of Plaintiff's claims be dismissed and that Plaintiff be responsible for Defendants' costs and attorney's fees pursuant to the Lanham Act and RCW 19.86 and that the court grant other relief that it deems proper.

DATED this 23rd day of September, 2014.

For Defendants

VERITRADEMARK

s/ Daniel M Bronski

Danny Bronski, WSBA #34385
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1411 East Olive Way
Seattle, WA 98122
Ph. 206/588-5981, danny@veritrademark.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 24, 2014, I caused the foregoing
ANSWER TO COMPLAINT to be filed via the Court's CM/ECF system which will provide
notice to counsel for Plaintiff.

I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct and that this declaration was executed on September 24, 2014, at Seattle, Washington.

/s/ Daniel M Bronski

Danny Bronski